

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

SCHEDULING ORDER

05-CR-6161L

v.

JOHN NICOLO,  
DAVID FINNMAN and CONSTANCE ROEDER,

Defendants.

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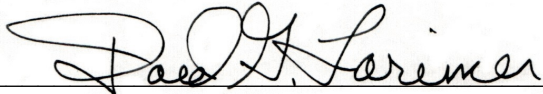
Defendant John Nicolo (“Nicolo”) moves (Dkt. #324) for reconsideration of this Court’s oral order of May 20, 2008, detaining him pending sentence, which is currently scheduled for August 27, 2008. In a memorandum of law (not an affidavit), one of Nicolo’s lawyers contends that Nicolo’s health has deteriorated in the few weeks since he has been detained and for that reason, among others, he seeks Nicolo’s release pending sentencing. The memorandum also suggests that the Government, specifically the United States Marshal’s Service, has changed Nicolo’s medication regime with negative effects.

There is no doubt that the Government must properly care for an inmate in its custody and that includes providing proper medical care. If the Government is unable or unwilling to provide such care, then a change in defendant’s release status may be appropriate.

Before any action will be taken, though, this Court needs more information than what is contained in a legal memorandum. Affidavits from persons who have personal knowledge and/or affidavits or statements from Nicolo's medical provider or treating physician would be more helpful than what has been provided.

I decline to modify the detention order on the present state of the record. Nicolo must supplement the pending motion with more specific, detailed information from persons with knowledge or medical expertise. When, and if, that material is provided, the Government must respond to it within ten (10) days and, in so doing, advise the Court precisely how the defendant's documented medical needs are being met.

IT IS SO ORDERED.



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DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
July 7, 2008.